STAND. COM. REP. NO. 2089

Honolulu, Hawaii

## FEB 0 6 2014

RE: S.B. No. 2123 S.D. 1

Honorable Donna Mercado Kim President of the Senate Twenty-Seventh State Legislature Regular Session of 2014 State of Hawaii

## Madam:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 2123 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose and intent of this measure is to promote impartiality in independent medical examinations and permanent impairment rating processes and potentially reduce the number of workers' compensation medical disputes by:

- (1) Requiring independent medical examinations and permanent impairment examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees; and
- (2) Allowing the use of an out-of-state physician to perform independent medical examinations and permanent impairment examinations under certain conditions.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; Hawaii State AFL-CIO; International Longshore and Warehouse Union, Local 142; Work Injury Medical Association of Hawaii; and two individuals. Testimony in opposition to this measure was submitted by the Department of Human Resources Development; Building Industry Association-Hawaii; Hawaii Insurers Council; General Contractors Association of Hawaii; Property Casualty

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Insurers Association of America; Hawaiian Electric Company, Inc.; National Federation of Independent Business; Society for Human Resource Management, Hawaii Chapter; Hawaii Pacific Health; and Island Princess.

Your Committee finds that under existing law, an employee, whenever ordered by the Director of Labor and Industrial Relations, is required to submit to a medical examination related to a workers' compensation claim by a duly qualified physician designated and paid for by the employer. However, the physician's impartiality is often questioned because the physician is selected and paid for by the employer. This measure establishes a process by which the physician who is to perform an independent medical examination and permanent impairment rating examination is selected by mutual agreement between the employer and injured employee.

Your Committee notes that the companion to this measure, H.B. No. 1961 (2014), is currently moving through the legislative process. The amendments recommended to H.B. No. 1961 by the House Committee on Labor alter the process proposed by this measure for determining the physician when the employer and employee initially fail to reach a mutual agreement. Your Committee believes that both processes merit further discussion as these two measures move through the legislative process.

Accordingly, your Committee has amended this measure by inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2123, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committee on Judiciary and Labor,

CLAYTON HEE, Chair

## The Senate Twenty-Seventh Legislature State of Hawai'i

## Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee	Referral:	Da <sup>-</sup>	Date:		
SB 2123	JDL, WAI		M	01-31-14		
The committee is reconsidering its previous decision on this measure.						
If so, then the previous decision was to:						
The Recommendation is:						
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313						
Members		Aye	Aye (WR)	Nay	Excused	
HEE, Clayton (C)						
SHIMABUKURO, Maile S.L. (VC)						
GABBARD, Mike						
GALUTERIA, Brickwood						
IHARA, Jr., Les						
SOLOMON, Malama						
SLOM, Sam					/	
			:			
TOTAL		5			2	
Recommendation:						
Adopted Not Adopted						
Chair's or Designee's Signature:						
<b>Distribution:</b> Original File with Committee Re	Yellow eport Clerk's Office		Pink Goldenrod Prafting Agency Committee File Copy			

\*Only one measure per Record of Votes